IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

Crl.MC.No. 853 of 2007()

CRIME NO.156/07 OF TIRUR POLICE STATION

PETITIONER:

K.P.ABOOBACKER, D/O.ASNAR,
AGED 55 YEARS, KUPPANTE PURACKAL HOUSE,
ASAN PADI, P.O.KOOTTAYI, VIA TIRUR,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:

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1. THE SUB INSPECTOR OF POLICE,
TIRUR POLICE STATION, MALAPPURAM DISTRICT.

2. THE STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.853 of 2007

Dated this the 28th day of May 2007

O R D E R

The petitioner is the defacto complainant in a crime registered interalia under Sections 452 and 427 read with 149 I.P.C. The alleged incident had taken place on the night of 15/02/2007. A group of miscreants allegedly, on account of animosity arising out of an earlier incident relating to drawal of electricity line, had allegedly trespassed into the property and indulged in wanton acts of violence and mischief. The miscreants were members of an unlawful assembly. F.I statement was lodged on 16/2/2007 itself and all the alleged miscreants have been named in the F.I.R except three persons. Investigation is in progress. But according to the petitioner, the miscreants being very influential members of the political party in power at the moment, the police officer is not showing the courage and the conviction to proceed against them. It is, in these circumstances, that the prayer for further investigation is made.

2. The learned Public Prosecutor was given notice. He has taken instructions. He has placed the case diary before me. The case diary reveals eloquently the want of a proper and serious investigation in the matter. The alleged overt acts are all seen confirmed by the investigating officer. But the investigating officer is vacillating on the question as to who are the persons responsible for such acts of violence. They have been identified and named in the F.I.S. A period exceeding three months has now elapsed. No serious and active efforts are seen made by the investigating officer - the Sub Inspector of Police. I am, in these circumstances, satisfied that there is merit in the submission of the petitioner that no serious investigation is being conducted - whatever be the reason. It is not necessary for me to hazard an opinion on the reason for the grievance. But the submission of the petitioner's counsel that the political clout of the alleged miscreants is acting as a deterrent against proper action by the police deserves serious consideration. The learned counsel for the petitioner submits that encouraged by the inaction of the police, subsequently also offences have been committed against the petitioner and that crime has been registered as Crime No.505/07 dated 10/05/2007.

3. The learned counsel for the petitioner submits that that investigation may be entrusted with more senior and competent hands. I find the request to be absolutely justified.

4. In the result, this Criminal Miscellaneous Case is allowed. It is directed that the investigation into crime No.156/07 of Tirur police station shall be conducted by a senior police official not below the rank of a Deputy Superintendent of Police to be identified by the Superintendent of Police, Malappuram District. Orders to that effect shall be issued within one month with copy to the petitioner by the Superintendent of Police.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007